

Applicants note that actually claims 1-27 are pending and are subject to restriction and/or election requirement in connection with the subject application. *See, e.g.*, First Preliminary Amendment filed on July 20, 2006; Group II (*i.e.*, Claims 22-27) noted in the June 26, 2008 Non-Final Office Action.

Restriction Requirement Under 35 U.S.C. §§ 121 and 372

In the June 26, 2008 Non-Final Office Action, the Examiner stated that the restriction to one of the following allegedly distinct inventions is required under 35 U.S.C. §§ 121 and 372:

- I. Claims 1-21, drawn to a non-cationic carrier, a pharmaceutical composition comprising a non-cationic carrier and a drug, and a method of delivering/controlling a pharmaceutical composition delivery, and
- II. Claims 22-27, drawn to a method of assessing the function of a carrier behavior within a tissue.

In response to this restriction requirement, applicants hereby provisionally elect Group I, *i.e.*, Claims 1-21, drawn to a non-cationic carrier, a pharmaceutical composition comprising a non-cationic carrier and a drug, and a method of delivering/controlling a pharmaceutical composition delivery, for continued examination.

Communication in Response to June 26, 2008 Non-Final Office Action
(Restriction Requirement)

If a telephone conference would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone her at the number provided below.

No fee is required for the filing of this Communication. However, in the event the actual fee is greater than the payment submitted or is inadvertently not enclosed or if any fee or additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 50-2215, under Order No. K2100.0001.

Furthermore, if this Communication is filed after the shortened statutory time period had elapsed and no separate Petition is enclosed, the Commissioner of Patents and Trademarks is petitioned, under 37 C.F.R. § 1.136(a), to extend the time for filing a response to the outstanding June 26, 2008 Non-Final Office Action by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 50-2215, under Order No. K2100.0001.

Dated: July 28, 2008

Respectfully submitted,

By 

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